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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JULIO ROSALES-SERRANO,

Defendant.

CASE NO.: 2:14-CR-00161-JAD-GWF

**STIPULATION AND PROPOSED
ORDER REGARDING THE
APPLICABILITY OF AMENDMENT 782
TO THE UNITED STATES
SENTENCING GUIDELINES**

This is the parties' stipulation regarding the applicability in this case of Amendment 782 to the United States Sentencing Guidelines.

Mr. Rosales pled guilty to one count of Conspiracy to Distribute a Controlled Substance, Heroin, in violation of 21 U.S.C. §§ 846 and 841(a)(1) and (b)(1)(C). *See* Guilty Plea Agreement, ECF No. 45, at 2. Mr. Rosales was sentenced on September 8, 2015. *See* ECF No. 47; *see also* Transcript of Proceedings, a true and correct copy of which is attached as **Exhibit A**. Judgment was entered on September 9, 2015. *See* ECF No. 48. Mr. Rosales filed motions for sentence reduction (ECF No. 50) and for appointment of counsel (ECF No. 49) on June 23, 2016. The Court granted the motion for appointment of counsel and ordered appointed counsel to investigate the applicability of Amendment 782 in this case. *See* Order, ECF No. 51.

On November 1, 2014, the U.S. Sentencing Commission promulgated U.S.S.G. Amendment 782, which reduced by two the offense levels across all drug types, resulting in lower advisory

1 guideline sentencing ranges for many drug offenders. The Commission also gave Amendment 782
2 retroactive effect by listing it in U.S.S.G. § 1B1.10(d)'s list of retroactive amendments. The
3 amendment to § 1B1.10(d), making Amendment 782 retroactive, went into effect on November 1,
4 2014.

5 For the following reasons, Mr. Rosales and the government agree that Mr. Rosales is not
6 entitled to any further reduction in his sentence:

7 1. The initial base offense level in this case under U.S.S.G. § 2D1.1(c)(6) was 28.

8 2. The plea agreement contemplated a two-level reduction for acceptance of responsibility
9 under U.S.S.G. § 3E1.1(a). *See* ECF No. 45 at 5.

10 3. The plea agreement contemplated an additional one-level reduction for a timely plea
11 under U.S.S.G. § 3E1.1(b). *Id.*

12 4. The plea agreement further stated as follows: "In light of the...proposed amendment to
13 lower the base offense level for all drug offenses by two levels, the Government agrees to recommend
14 a two-level downward variance to the Defendant's base offense level. In exchange for this
15 recommendation, the Defendant agrees not to seek, and expressly waives the right to seek, a further
16 reduced sentence...in the event that the two-level reduction is adopted and made retroactive by the
17 Sentencing Commission." *Id.* at 6.

18 5. The plea agreement contemplated, therefore, an additional two-level reduction under the
19 category "Attorney General Directive," for a total offense level of 23.

20 6. Mr. Rosales fell in criminal history category I with an offense level of 23, for a
21 Guidelines range of 46-57 months.

22 7. At sentencing, both Mr. Rosales and the government agreed to a sentence at the low end
23 of the Guidelines. *See Exh. A* at 6:24-7:6.

24 8. The Court accepted and applied the government's recommended two-level downward
25 variance in anticipation of Amendment 782's implementation, as well as the three levels for acceptance
26 of responsibility and timely plea. *Id.* at 8:14-17.

27 9. The Court also followed the parties' recommendation for a low-end sentence.
28 Accordingly, the Court sentenced Mr. Rosales to 46 months in custody followed by three years of

1 supervised release. *Id.* at 9:2-5.

2 10. Therefore, the parties agree that Mr. Rosales has already received the benefit intended
3 by Amendment 782, and no further reduction in his sentence is warranted at this time.

4 Respectfully submitted this 25th day of October 2016.

6 By: /s/ Daniel J. Hill
7 DANIEL J. HILL, ESQ.
8 Nevada Bar No. 12773
9 *Attorney for Defendant Julio Rosales-*
10 *Serrano*

On October 25th, 2016

11 By: /s/ Cristina D. Silva
12 CRISTINA D. SILVA, ESQ.
13 Assistant United States Attorney
14 *Attorney for the Government*

On October 25th, 2016

15 **ORDER**

16 Based upon the stipulation of the Parties and upon the Court's own independent review of
17 the record,

18 IT IS HEREBY ORDERED that Defendant Julio Rosales-Serrano's Motion for a Sentence
19 Reduction under Amendment 782 of 18 U.S.C. 3582(c) (ECF No. 50) is DENIED.
20

21 DATED this 26th day of October, 2016.

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24 HON. JENNIFER A. DORSEY
25 UNITED STATES DISTRICT JUDGE
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